

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Braxton Avery,)
)
Plaintiff,)
)
vs.)
)
E&M Services, LLC, and John Does 1-25,) **ORDER**
)
Defendant and Third-Party)
Plaintiff,)
)
vs.)
)
Equinor US as successor in interest to)
Statoil, Inc.,)
)
Third-Party Defendant and)
Fourth-Party Plaintiff,) Case No. 1:18-cv-258
)
vs.)
)
Eklipse Resources, LLC,)
)
Fourth-Party Defendant.)

On April 17, 2020, Fourth-Party Defendant Eklipse Resources, LLC (“Eklipse”) filed a Motion to Amend Scheduling Order and Continue Trial. Stressing that it was joined as a party nearly four months after discovery closed in this case and less than one month before the dispositive motion deadline lapsed, it requests the pretrial deadlines be extended and the trial be continued so that it may conduct discovery and engage in motion practice prior to trial.

On April 22, 2020, Third-Party Defendant and Fourth-Party Plaintiff Equinor Energy LP

(“Equinor”)¹ filed a response to Eklipse’s motion. It advises that it has no opposition to Eklipse’s request to amend the pretrial deadlines and continue the trial. It does, however, object to any suggestion that its pending motion for summary judgment is premature.

More than 14 days have now lapsed since Eklipse filed its motion. To date neither Plaintiff Braxon Avery nor Defendant and Third-Party Plaintiff E&M Services, LLC have filed a response Eklipse’s motion. See D.N.D. Civ. L.R. 7.1(F) (“An adverse party’s failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.”).

For good cause shown, Eklipse’s motion (Doc. No. 37) is **GRANTED** insofar as it requests an extension of the pretrial deadlines and a continuance of trial. The final pretrial conference set for September 15, 2020, and the jury trial set for September 28, 2020, are canceled with the understanding that they shall be rescheduled at a later date. The parties shall email a proposed revised scheduling and discover to ndd_J-Hochhalter@ndd.uscourtgs.gov by May 29, 2020. The Magistrate Judge shall hold a status conference with the parties by telephone on June 1, 2020, at 9:00 a.m. to discuss the proposed revised scheduling and discovery plan and to provide the parties with new dates for the final pretrial conference and trial. To participate in the conference call, the parties should dial (877) 810-9415 and enter access code 8992581.

IT IS SO ORDERED.

Dated this 5th day of May, 2020.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court

¹ In its response to the motion, Equinor advises that has been improperly captioned as Equinor US as successor in interest to Statoil, Inc.